



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

200951043

SEP 21 2009

Uniform Issue Code: 408.03-00

SE: T: EP: RA: T4

XXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXX

Legend:

Taxpayer A = XXXXXXXXXXXXXXXXXXXX
Individual B = XXXXXXXXXXXXXXXXXXXX
IRA X = XXXXXXXXXXXXXXXXXXXX
Amount D = XXXXXXXXXXXXXXXXXXXX
Fund Y = XXXXXXXXXXXXXXXXXXXX
Date1 = XXXXXXXXXXXXXXXXXXXX

Dear XXXXXXXXXXXXXXXX:

This is in response to your letter dated June 19, 2007, as supplemented by correspondence dated September 17, 2008 and July 31, 2009, in which you request a waiver of the 60-day rollover requirement contained in section 408(d)(3) of the Internal Revenue Code ("Code").

The following facts and representations have been submitted under penalty of perjury in support of the ruling requested.

Taxpayer A, age 49, represents that on Date 1, she received a distribution from IRA X totaling Amount D. Taxpayer A asserts that her failure to accomplish a rollover within the 60-day period prescribed by section 408(d)(3) of the Code was due to the necessary care giving she provided her mother, Individual B, who was ill and whose illness worsened during the 60-day rollover period.

A few months prior to the receipt of the distribution from IRA X, Taxpayer A's mother, Individual B, was diagnosed with a serious crippling physical condition that required medical treatment. Taxpayer A began caring for her mother on a regular basis. On Date 1, Taxpayer A received a distribution from IRA X in Amount D which she intended to roll over into a better yielding IRA. However, during the period following the distribution, as Individual B's condition worsened, Taxpayer A became Individual B's primary assistance provider and had to provide care, attention and transportation to Individual B several days per week in addition to maintaining a demanding job and providing necessary care to her own children. Individual B lived in another town which generally required driving more than an hour's travel each way. During the 60-day period following the distribution of Amount D, it became evident that Individual B would require surgery and Taxpayer A was responsible for evaluating surgeons and scheduling surgery for Individual B. While Taxpayer A was thus involved in caring for her mother, the 60-day rollover period for Taxpayer A's distribution of Amount D from IRA X expired.

Taxpayer A did not immediately realize that the 60-day period had expired because in addition to caring for her mother during the following months, she was also obliged to provide care for her daughter, who developed a serious medical condition and had to undergo emergency surgery. Just as Individual B's condition was beginning to improve, Taxpayer A, herself was diagnosed with cancer as a result of which she underwent multiple medical treatments, including surgery.

Taxpayer A has provided documentation showing that Individual B was treated for certain physical health conditions during the 60-day rollover period. Taxpayer A asserts that her mother's physical health conditions required her to devote a considerable amount of time to caring for her and thus impaired her ability to complete the rollover transaction within the 60-day rollover period prescribed by section 408(d)(3) of the Code.

Based on the facts and representations, you request a ruling that the Internal Revenue Service waive the 60-day rollover requirement contained in section 408(d)(3) of the Code with respect to Amount D.

Section 408(d)(1) of the Code provides that, except as otherwise provided in section 408(d), any amount paid or distributed out of an IRA shall be included in gross income by the payee or distributee, as the case may be, in the manner provided under section 72 of the Code.

Section 408(d)(3) of the Code defines, and provides the rules applicable to IRA rollovers.

Section 408(d)(3)(A) of the Code provides that section 408(d)(1) of the Code does not apply to any amount paid or distributed out of an IRA to the individual for whose benefit the account is maintained if:

- (i) the entire amount received (including money and any other property) is paid into an IRA for the benefit of such individual not later than the 60th day after the day on which he receives the payment or distribution; or,
- (ii) the entire amount received (including money and other property) is paid into an eligible retirement plan (other than an IRA) for the benefit of such individual not later than the 60th day after the date on which the payment or distribution is received, except that the maximum amount which may be paid into such plan may not exceed the portion of the amount received which is includible in gross income (determined without regard to section 408(d)(3)).

Section 408(d)(3)(B) of the Code provides that section 408(d)(3) does not apply to any amount described in section 408(d)(3)(A)(i) received by an individual from an IRA if at any time during the one-year period ending on the day of such receipt such individual received any other amount described in section 408(d)(3)(A)(i) from an IRA which was not includible in gross income because of the application of section 408(d)(3).

Section 408(d)(3)(D) of the Code provides a similar 60-day rollover period for partial rollovers.

Section 408(d)(3)(i) of the Code provides that the Secretary may waive the 60-day requirement under sections 408(d)(3)(A) and 408(d)(3)(D) of the Code where the failure to waive such requirement would be against equity or good conscience, including casualty, disaster, or other events beyond the reasonable control of the individual subject to such requirement. Only distributions that occurred after December 31, 2001, are eligible for the waiver under section 408(d)(3)(i) of the Code.

Revenue Procedure 2003-16, 2003-4 I.R.B. 359 (January 27, 2003), provides that in determining whether to grant a waiver of the 60-day rollover requirement pursuant to section 408(d)(3)(i) of the Code, the Service will consider all relevant facts and circumstances, including: (1) errors committed by a financial institution; (2) inability to complete a rollover due to death, disability, hospitalization, incarceration, restrictions imposed by a foreign country, or postal error; (3) the use of the amount distributed (for example, in the case of payment by check, whether the check was cashed); and, (4) the time elapsed since the distribution occurred.

The information and documentation presented by Taxpayer A is consistent with her assertion that her failure to accomplish a timely rollover was caused by the considerable care she was obliged to provide to her mother as a result of her mother's physical health condition.

Therefore, pursuant to section 408(c)(3)(I) of the Code, the Service hereby waives the 60-day rollover requirement with respect to Amount D. Provided all other requirements

XXXXXXXXXXXXXXXXXX

Page 4

200951043

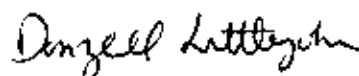
of section 408(d)(3) of the Code, except the 60-day requirement, are met, Amount D, will be considered a rollover contribution within the meaning of section 408(d)(3) of the Code.

No opinion is expressed as to the tax treatment of the transaction described herein under the provisions of any other section of either the Code or regulations which may be applicable thereto.

This ruling is directed solely to the taxpayer who requested it. Section 6110(k)(3) of the Code provides that it may not be used or cited by others as precedent.

If you wish to inquire about this ruling, please contact XXXXXXXXXX, SE:T:EP:RA:T4, I.D. No. XXXXXXXXXX, at XXX XXX-XXXX.

Sincerely yours,



Donzell Littlejohn, Manager
Employee Plans, Technical Group 4

Enclosures:

Deleted Copy of Ruling Letter
Notice of Intention to Disclose